

## Opinion No. 65-119

July 7, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

**TO:** Mr. Kenneth A. Davis, Director, Educational Retirement Board, P. O. Box 1029, Santa Fe, New Mexico

### QUESTION

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What is the maximum allowed service credit that is permissible under the Educational Retirement Act?

#### CONCLUSION

Ten years under certain conditions.

### OPINION

#### {\*203} ANALYSIS

Section 73-12-74, N.M.S.A., 1953 Compilation (P.S.) provides that "No member shall be certified to have acquired more than five years of allowed service credit."

{\*204} However, the 1965 session of the legislature amended Section 73-12-73, N.M.S.A., 1953 Compilation to provide that allowed service credit is acquired for certain non-service employment, the categories of which are enumerated under paragraphs A, B and C. The section, as amended, goes on to provide that:

"No period of allowed service-credit computed under the provisions of Subsections A or B or C shall exceed five years; periods of allowed service credit computed under the provisions of Subsections A and C may be combined and may be cumulative but shall not exceed five years; and **periods of allowed service-credit computed under the provisions of Subsection A and B, B and C, or A, B and C may be combined and may be cumulative but shall not exceed ten years.**" (Emphasis added).

Thus there is a definite conflict between Section 73-12-74 and 73-12-73 when persons are claiming allowed service-credit by combining service under A and B, and B and C or A, B and C.

It is true that repeals and amendments by implication are not favored. This doctrine is stated as follows in **State v. Valdez**, 59 N.M. 112, 279 P. 2d 868:

"The doctrine that repeals by implication are not favored is firmly bedded in our law, but we are equally committed to the rule that where two statutes have the same object and relate to the same subject, if the later act is repugnant to the former, the former is repealed by implication to the extent of the repugnancy, even in the absence of the repealing clause in the later act."

Following this well recognized doctrine of statutory interpretation, we conclude that to the extent of the conflict between Section 73-12-74 and 73-12-73 the latter controls because it is the more recent expression of the legislature.